



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 8, 1996

Mr. W. Roger Wilson
Matthews & Branscomb
One Alamo Center
106 South St. Mary's Street
San Antonio, Texas 78205-3692

OR96-0155

Dear Mr. Wilson:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 37578.

The City Public Service Board of San Antonio ("CPS"), whom you represent, received two requests for documents relating to its proposed development of a fiber optic network. You have provided some of information to the requestors. You claim, however, that the remaining records may be withheld from the public pursuant to sections 552.103(a), 552.107, 552.110, and 552.111 of the Government Code.

To secure the protection of section 552.103(a), a governmental body must demonstrate that requested information "relates" to a pending or reasonably anticipated judicial or quasi-judicial proceeding. Open Records Decision No. 551 (1990). In this instance you have made the requisite showing that the requested information relates to pending litigation for purposes of section 552.103(a); the requested records may therefore be withheld.

In reaching this conclusion, however, we assume that the opposing party to the litigation has not previously had access to the records at issue. Absent special circumstances, once information has been obtained by all parties to the litigation no section 552.103(a) interest exists with respect to that information. Open Records Decision Nos. 349 (1982), 320 (1982). Finally, the applicability of section 552.103(a)

ends once the litigation has concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).¹

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Records Division

LRD/ch

Ref.: ID# 37578

Enclosures: Submitted documents

cc: Mr. Seagal V. Wheatley
Wheatley & Onion, L.L.P.
Frost Bank Tower, Suite 1200
100 West Houston
San Antonio, Texas 78205-1457
(w/o enclosures)

Mr. Joel Williams
San Antonio Express-News
P.O. Box 2171
San Antonio, Texas 78297-2171
(w/o enclosures)

¹Because we conclude that section 552.103 resolves this request, we need not now consider other exceptions to required public disclosure. We note, however, that the records submitted for our review contain proprietary information that may be protected from disclosure under section 552.110 of the Government Code. If CPS receives requests for these records when section 552.103(a) is no longer applicable, we urge you to exercise caution before releasing the information. See Gov't Code § 552.352 (providing penalties for improper release of confidential information).